

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOROTHY A. RECARDE; and
BRYAN D. WALTERS, in his capacity
As Chester County (Pa) Prothonotary,

Defendants.

Case No. 5:14-cv-2663-JLS

FILED

SEP 02 2016

LUCY V. CHIN, Interim Clerk
By _____ Dep. Clerk

DEFAULT JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

The plaintiff, the United States of America, commenced this civil action on May 9, 2014, pursuant to 26 U.S.C. § 7402(a), to obtain: (a) an order declaring as null, void, and without legal effect the "Commercial Lien," "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default," and any subsequently filed or related documents, that defendant Dorothy A. Recarde filed in the Chester County Court of Commons Pleas on March 31, 2014 and on April 14, 2014 against Zachary L. McNichol; Fredrick P. Henrich, President - Coatesville Savings Bank; and John F. McKenna, Legal Counsel - Coatesville Savings Bank; and (b) an order enjoining defendant Recarde from all future filings of similar instruments. (See Amd. Compl.)

The defendant, Dorothy Recarde, failed to file an answer or otherwise defend in this action, and the Clerk entered default of the defendant on January 16, 2015. The defendant, Bryan Walters, the Chester County Prothonotary, failed to file an answer or

otherwise defend in this action, and the Clerk entered default of the defendant on May 13, 2015.

The United States has now moved for the entry of default judgment against the defendant, Dorothy Recarde, for an order declaring null and void certain documents prepared and filed by Recarde in the Chester County Court of Common Pleas, along with an injunction.

The Court, having considered the United States' motion for default judgment, the Declaration of Revenue Officer of Zachary McNichol, and the entire record in this matter, hereby GRANTS the United States' motion, and it is HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED as follows:

Findings of Fact and Conclusions of Law

1. This is an action by the United States instituted under section 7402(a) of the Internal Revenue Code (26 U.S.C.). The complaint seeks both (a) an order declaring as null, void, and without legal effect the "Commercial Lien," "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default," and any subsequently filed or related documents, that defendant Dorothy A. Recarde filed in the Chester County Court of Commons Pleas on March 31, 2014 and on April 14, 2014 against Zachary L. McNichol; Fredrick P. Henrich, President - Coatesville Savings Bank; and John F. McKenna, Legal Counsel - Coatesville Savings Bank; and (b) an order enjoining defendant Recarde from all future filings of similar instruments.

2. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the defendants Dorothy Recarde and Bryan Walters, pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.
3. Venue is proper in this judicial district under 28 U.S.C. § 1391(b).
4. The defendant, Dorothy Recarde, has been properly served with the summons and complaint in this action, as required by Fed. R. Civ. P. 4.
5. The defendant, Bryan Walters, the Chester County Prothonotary, has been properly served with the summons and complaint in this action, as required by Fed. R. Civ. P. 4.
6. The defendant, Dorothy Recarde, has failed to answer or otherwise defend in this action. The Clerk of the Court properly entered the default of the defendant Recarde on January 21, 2015.
7. The defendant, Bryan Walters, the Chester County Prothonotary, has failed to answer or otherwise defend in this action. The Clerk of the Court properly entered the default of the defendant Walters on May 13, 2015.
8. Because of the defendants' default, the allegations in the complaint filed in this action are taken as true.
9. Defendant Dorothy Recarde is President of Summerbeam Woodworking, Inc. ("Summerbeam").
10. Summerbeam failed to pay over to the United States employment taxes it collected from its workers' wages during the quarterly periods ending

June 30, 2008, September 30, 2008, December 31, 2008, December 31, 2010, and March 31, 2011.

11. In an attempt to collect Summerbeam's unpaid tax liabilities, on January 23, 2014, February 21, 2014, and April 4, 2014, Revenue Officer McNichol issued Notices of Levy to seize funds in Summerbeam's corporate bank account at the Coatesville Savings Bank in Coatesville, Pennsylvania. Coatesville Savings Bank complied with the IRS' levies by remitting funds from Summerbeam's corporate bank account to the IRS to partially satisfy Summerbeam's federal employment tax liability.
12. At all times mentioned herein, Zachary McNichol was a Revenue Officer of the Internal Revenue Service in Lancaster, Pennsylvania, and was acting within the course and scope of his employment as a Federal employee.
13. As a result of the IRS's collection activity, defendant Recarde filed (in Chester County Court at Docket Number 2013-02694) the "Commercial Lien," "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default," and related documents against Officer McNichol and Messrs. Henrich and McKenna.
14. On or about March 31, 2014, defendant Recarde caused to be filed in the public records of the Clerk of Chester County, Pennsylvania a document entitled "Commercial Lien" against Zachary L. McNichol, Frederick P.

Henrich, and John F. McKenna. Defendant Recarde attached ten "Supporting Documents" to the "Commercial Lien." (Exhibit 1.)

15. On April 14, 2014, defendant Recarde filed an "Addendum" to the Commercial Lien, a "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default." (Exhibit 2.)
16. The documents Recarde filed, Exhibits 1 and 2, were filed in retaliation against Officer McNichol for acts performed by him as part of his official duties, under his authority as an officer or under the direction of officers of the United States, and in retaliation against Messrs. Henrich and McKenna for causing Coatesville Savings Bank to comply with the United States' levies.
17. The documents Recarde filed, Exhibits 1 and 2, lack any legal basis whatsoever and are specifically calculated to cause substantial interference with the enforcement of the laws of the United States pertaining to the internal revenue, and to molest, interrupt, hinder or impede an employee or officer of the United States who was in good faith performing his official duties, and to impede future compliance with the United States' levies by Coatesville Savings Bank, or by its officers, employees, attorneys, or agents.
18. Defendant Recarde's filings are without any legal basis, and are solely designed to harass a Federal officer and employee in the performance of his official duties, and to harass the Bank's President and its attorney due

to the bank's compliance with the United States' attempts to collect the Summerbeam's unpaid tax liabilities. Thus, Recarde's filings impose an immediate and irreparable harm.

19. Defendant Recarde's filings impose an immediate and irreparable injury upon the United States by impeding, obstructing and impairing the execution of the official duties of its employees and officers.
20. The public interest will be served by an order declaring the "Commercial Lien," "Supporting Documents," the "Addendum" to the Commercial Lien, the "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default, and any subsequently filed or related documents, to be null and void; and permanently enjoining defendant Recarde and all those in active concert or participation with her from filing, or attempting to file, any document or instrument which purports to create a "Commercial Lien," a "Notice of Fault and Opportunity to Cure," or a "Certificate of Non-Response - Notice of Default," or any other similar judicial order or purported judgment which has the effect of interfering with federal tax administration against the person or property of any Federal officer or employee or against Coatesville Savings Bank, its officers, employees, attorneys, or agents.
21. IT IS HEREBY ORDERED that the "Commercial Lien," "Supporting Documents," the "Addendum" to the Commercial Lien, the "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response -

Notice of Default," and any subsequently filed or related documents, are determined to be null and void, and without legal effect.

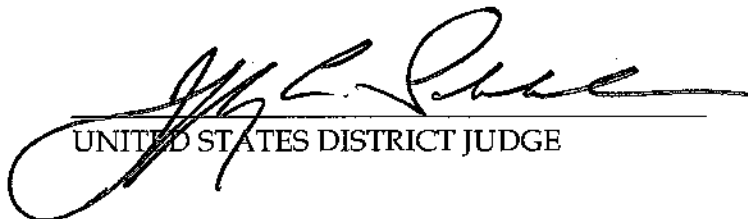
22. IT IS HEREBY ORDERED that defendant Walters, the Chester County Prothonotary, will index a judicial Order with the Prothonotary that the "Commercial Lien," "Supporting Documents," the "Addendum" to the Commercial Lien, the "Notice of Fault and Opportunity to Cure," and "Certificate of Non-Response - Notice of Default," filed by defendant Recarde is null, void, and without legal effect.

23. IT IS FURTHER ORDERED that a permanent injunction is issued to prevent the defendant Dorothy A. Recarde, her agents, and all others in active concert or participation with her, from filing, or attempting to file, any document or instrument which purports to create a commercial lien or judgment against the person or property of any employee or officer of the United States, or against any other person or entity, including Coatesville Savings Bank, or by its officers, employees, attorneys, or agents, that would have the effect of impeding compliance with federal tax administration.

24. The Clerk of Court is instructed to enter judgment against the defendants, Dorothy Recarde and Bryan Walters, and in favor of the United States consistent with this Order.

DONE and ORDERED this 1st day of SEPTEMBER, 2016

FOR THE COURT:


UNITED STATES DISTRICT JUDGE